

RAPID Task Order 2.1 Activity

End of Assignment Report:
Consultant: Rean Botha
Position: Transport Corridor / Legal Specialist
Dates of Consultancy: March – June 2002

Submitted to:
Chemonics International, Inc.

Gaborone, Botswana

June 2002

USAID Contract No. 690-I-00-00-00149-01

Purpose of the assignment and expected result

1.1 The objectives of the assignment were to:

- Develop the regional and national capacity to implement and monitor compliance with the Transport protocol
- Adapt model legislation to individual member states
- Ensure that the regional momentum for reform in transport harmonization is maintained; and
- Build public – private partnership and capacity to engage in and influence the policy dialogue, implementation, monitoring and evaluation.

1.2 Under the statement of work, I was required to:

- Assist Botswana, Namibia, and South Africa to enact legislation to support joint customs controls on the Trans Kalahari Corridor (TKC) and elsewhere;
- Provide institutional support to South African Revenue Service (SARS) and other TKH customs administrations to implement joint customs controls;
- Participate in joint overloading control law enforcement exercises and the development of a TKC Annex
- Assist Tanzania, Malawi and Zambia to develop a Northern Corridor (subsequently renamed Dar es Salaam Corridor) Memorandum of Understanding (subsequently renamed *Constitution*); and
- Provide institutional support to mobilize the Dar es Salaam Corridor Management Committee.

Locations visited and dates

Dates	Locations	Purpose
3 March – 19 March 2002	Tanzania, Malawi, Zambia (capitals) and road trips from Lilongwe (Malawi) to Mbeya (Tanzania) and return to visit border posts	Technical assessment of Dar corridor and consultation with principal government and private sector stakeholders
14 – 16 April 2002	Pretoria, South Africa	Meeting with SARS on one-stop border posts
10 – 13 June 2002	Pretoria & Johannesburg, South Africa	Meeting to submit report on one-stop border posts to SARS and deliver presentation to SADC customs advisory working groups on one-stop border posts
27 – 30 June 2002	Dar es Salaam, Tanzania	Presentation of proposed Dar es Salaam Corridor Committee constitution to Tanzania Harbour Authority and discussion with Tanzania Revenue Authority to explore options for conversion of border posts on Dar corridor to one-stop operations.

Highlights of the assignment

3.2 The assignment had three principal focuses:

- Advancing the one-stop border post concept on the TKC between Botswana, Namibia and South Africa;
- Assisting to mobilize a corridor planning committee as envisaged in Art 3.5 of the SADC Transport Protocol on the Dare es Salaam Corridor (DeSC); and
- Developing recommendations for a system of administrative penalties to improve commercial vehicle overloading control on the TKC.

One-stop border posts

South Africa

- 3.3 The SOW originally envisaged assistance to reform legislation in all three TKC states to support the one-stop concept. Early in the assignment it was realised the South Africa was the key to progress along the entire corridor. South Africa acts as the engine room of the Southern African Customs Union (SACU) to which the other TKC states also belong. As a result, the practice had developed that policy and legislative changes are largely initiated by SARS and then implemented by other SACU customs. Efforts were, therefore, redirected to providing SARS with maximum assistance as the best strategy to advance progress on this issue along the entire TKC.
- 3.4 Prior to the commencement of the contract, I had already prepared a draft *Customs and Excise Bill* for SARS to support one-stop posts. The Bill brought differing views on the issue within SARS to the fore¹. These differences were preventing progress on the issue and hampering efforts by SARS to persuade other border agencies to support the one-stop concept. Hence, SARS requested assistance to formulate an internal policy position. This was provided in a detailed research report, *Position Paper on the One-Stop Border Post Concept and Joint Customs Controls*, 17 June 2002. Two meetings were held with SARS, firstly to gather first-hand information to prepare the report and then to present the report itself.
- 3.5 SARS also requested assistance with a model agreement that could be used as basis for negotiating one-stop / joint control arrangements with other states. This was provided in a *Draft Bilateral Agreement between the Republic of South Africa and the Republic of ...on the Establishment of Juxtaposed National Customs Offices at Land Border Crossings and the Performance of Joint Customs Controls*, 17 June 2002.
- 3.6 This assignment has assisted the various internal sections in SARS to take ownership of the one-stop concept. The position paper now provides SARS with a policy framework to guide future planning and decision-making. The relevant officers have been empowered to spread and defend the message within their various sections. They are now also able to initiate a process of engaging other government agencies and counterpart customs administrations to expand the concept to include other border control agencies like immigration and police.
- 3.7 My engagement has had the further positive spin off that SARS has itself initiated the process of amending the Customs and Excise Act to accommodate joint controls and the one-stop concept. It is intended to submit the amendments to Parliament by end-July, implying that the Act will already be amended this year to enable the implementation of any one-stop arrangements that SARS negotiates with other states

¹ Expressed primarily in a legal opinion by the SARS legal counsel, in response to which a counter-opinion was prepared (*Memorandum to V Shabalala*, 1 March 2002)

Dar es Salaam Corridor

- 3.8 The technical assessment of the DeSC revealed the potential to also advance the one-stop concept between the DeSC states (Tanzania, Malawi and Zambia). Using lessons learnt from the TKC, options were explored with both Tanzanian and Zambian customs who expressed enthusiastic support. An approach was also made to the World Bank, which has provided a loan to fund tax and customs reforms in Tanzania, including upgrading of border post infrastructure, to identify areas of synergy between Rapid's work and the Bank's activity.

SADC Customs Advisory Working Groups

- 3.9 Using lessons learnt from the assistance provided to SARS, the research was adapted to also brief a regional SADC audience on the rationale for and benefits of the one-stop concept. This was done in a presentation to the SADC Customs Advisory Working Groups on 13 June 2002. Subsequently, the position paper prepared for SARS was revised and distributed to SADC customs administrations as a *Regional Backgrounder on the One-Stop Border Post Concept / Joint Customs Controls, 18 June 2002*. The model bilateral agreement was also adapted for use by other SADC customs administrations in the *Draft Bilateral Agreement between the Republic of ... and the Republic of ...on the Establishment of Juxtaposed National Customs Offices at Land Border Crossings and the Performance of Joint Customs Controls, 18 June 2002*.

Botswana and Namibia

- 3.10 Institutional and legislative roadmaps were also prepared to assist Botswana and Namibia customs to advance their own planning to implement one-stop arrangements. The roadmaps spell out how the customs administrations can overcome existing legal obstacles and propose a strategy whereby each country can develop a national policy position on the issue in preparation for bilateral negotiations with other states. The roadmaps are documented in *Institutional and Legal Roadmap to One-Stop Border Posts / Joint Customs Controls, 30 June 2002* (separate reports for Botswana and Namibia respectively).

Dar corridor

- 3.11 This task commenced with a technical assessment visit. While time and resources did not permit a comprehensive operational assessment of the corridor, a significant amount of data was gathered indicating that the corridor is under-performing and highlighting areas where corrective action is required. This was documented in the *Trip Report and Recommendations Dar es Salaam Corridor: Transport Co-ordinating Committee, 30 May 2002*. It also revealed a consensus of opinion on the need for a new, expanded corridor institution with a public / private sector base and strong operational, logistics and marketing focus. Such as committee, provisionally named the Dar es Salaam Corridor Committee (DeSCC), would replace the existing *Transport Co-ordinating Committee (TCC)*, which has largely comprised of transport service providers (initially public, now mostly private sector) and customers. The DeSCC would include key government agencies responsible for reforming policies and laws that constraint the corridor's performance. A further key feature

would be the establishment of a professional secretariat with operational, marketing and data management capacity.

- 3.12 Detailed recommendations were developed for an institutional design of the DeSCC and presented to the Tanzania Harbours Authority (which has acted as the permanent institutional support of the TCC and initiated the request to Rapid for technical assistance). These are documented in the *Constitution of the Dar es Salaam Corridor Committee*, 30 June 2002.
- 3.13 Planning was also undertaken to consult with stakeholders to develop a broad-based consensus on the proposed Constitution. This included a draft letter of invitation, agenda and invitee lists for national workshops in Malawi, Tanzania and Zambia.

Vehicle overloading control

- 3.14 A simple system of administrative disincentives and penalties, which is easy to implement, was developed to assist transport authorities on the TKC to improve commercial vehicle overloading control. Existing enforcement through criminal law fines and court prosecutions are not an effective deterrent and the incidence of overloading remains high. The proposed administrative system overcomes the constraints of the current system and can achieve an impact on overloading behaviour within a short time frame of a few months. The recommendations are intended to be implemented during an overloading control pilot project between South Africa and Botswana planned as part of the for next task order. The recommendations are documented in *Commercial Vehicle Overloading: Short Term Options for a System of Administrative Penalties during the Martin's Drift / Grobler's Bridge Pilot Project*, 30 June 2002.

Issues, constraints and opportunities

One-stop border posts

- 4.1 The assistance rendered to SARS has brought actual implementation of the one-stop concept closer. At the close of the assignment, final policy level approval for the suggested approach was being sought from the Commissioner of SARS and the General Manager: Customs. When approval is given (which is likely to be a formality), SARS can begin to engage counterpart customs administrations in negotiating bilateral arrangements to introduce joint controls and convert posts to one-stop operations. The model agreement provided to SARS will be used as the basis for such negotiations. Once SARS signals its intention to amend the customs law, a process of amendment in Botswana and Namibia is also likely to follow. Initial assessments already revealed a high degree of support for the concept within the customs administrations of these countries. It is, therefore, feasible, that legal reforms could still occur during 2002.

Dar corridor

- 4.2 The technical assessment has delineated objectives and tasks for a future corridor committee. A process of familiarization and socialization of the recommendations must now follow to establish a broad-based consensus on the future direction of the DeSCC. The cost of setting up a Secretariat is a potential constraint and requires further investigation.

The general realization among TCC members of the need for reform, plus the support for the concept of a corridor management committee, are positive features that bode well for implementation.

Vehicle overloading control

- 4.3 The proposed pilot project to be undertaken under the new task order presents an opportunity to conduct both physical weighing of vehicles *and* to test existing administrative mechanisms to control overloading. These measures can already make a measurable impact on overloading patterns. If successful, the experience gained will enable the TKC authorities to roll out the system on all routes. This can contribute to addressing the problem of overloading control more effectively in the short-term, even while legal reforms are undertaken to implement the SATCC proposals over the medium to longer term.

Recommendations and Follow-up

One-stop border posts

- 5.1 Assistance should be sustained under the new task order to advance the concept to actual implementation. SARS has been sufficiently empowered to sustain implementation with own resources, although limited TA may still be required to support a process of consensus building with other border control agencies.
- 5.2 Initial engagement of customs administrations in Botswana and Namibia has created a climate favourable to the implementation of the one-stop concept. Further policy and legal reform assistance is likely to be necessary, especially to respond to approaches that will be forthcoming from SARS to discuss implementation at border posts such as Skilpadshek / Pioneer Gate on the TKC and to assist the two countries to agree such arrangements between themselves at Trans-Kalahari / Mamuno post.
- 5.3 The climate conducive to reform appears to also exist on the DeSCC. Customs administrations in these states should be engaged more intensively and provided with assistance in response to need to enable reforms at Nakonde / Tunduma and Songwe / Kasumulu. The availability of funding to upgrade border posts in Tanzania provides an opportunity to plan facilities in a way that supports joint controls. The feasibility of such an approach must be explored further with the TRA, ZRA and the World Bank.

Dar corridor

- 5.4 The process of engagement towards formation of the DeSCC must be sustained. Wider consensus building is now required through national workshops to secure maximum buy-in from public and private bodies and to confirm agreement on the contents of the proposed Constitution. This process can also be used to fill in the details of an annual work programme for the committee. The need for assistance to mobilize the secretariat must also be assessed.

Vehicle overloading control

- 5.5 The operation of the administrative penalty system must be monitored during the pilot to refine its operations and secure maximum efficiency. Further assistance should be provided to support Botswana, Namibia and South Africa to fully implement the SATCC proposals. Lessons learned during the pilot should inform this process.

Attachments

A. LIST OF MEETINGS HELD AND CONTACT INFORMATION

MALAWI			
Name	Organization	Tel/Fax	E-mail
Christopher Kachiza	Director of Industry: Ministry of Commerce (MCI)and Industry	265-770 244 (P) 265-770 680 (Fax)	kachizacc@malawi.gov.mw
Brian Mtonya	Deputy Director of Industry, MCI	265-770 244(P) 265-770 450(P) 265-770 680(Fax) 265-922 038 (cell)	mtonyab@malawi.gov.mw
Harrison Mandindi	Deputy Director of Commerce	265-780 244(P) 265-780 680(Fax)	minci@malawi.net
Alex Gomani	Principal Secretary Ministry of Transport and Public Works (MTPW)	265-789 071(P) 265-789 328(Fax) 265-930 541(Cell)	mika@sndp.org.mw
Steven Mkandawire	Director: Road Traffic, MTPW	265-755 797(P) 265-755 985 (Fax) 265-824 559(Cell)	smkandawire@globe.mw.net
Tomics Kaunda	Director of Policy and Planning, MTPW	265-788825(P)	tmkaunda@eomw.net
Brabner Mhango	Corridor Co- ordinator, MTPW	265-789 9377(P) 265-789 328 (Fax) 265-944 276 (cell)	planning@eomw.net bmhango@eomw.net
Jason Chunda	Technical Director Planning, National Roads Authority (NRA)	265-750 119(P) 265-842 762 (cell)	gchunda@nra.sndp.org.mw
L Sibande	Transport economist, NRA	265-753 699(P) 265-750 307 (Fax) 265-844 348(Cell)	
Stallard Mpata	General Manager Malawi Cargo Centres	265-756 112(P) 265-753 627 (Fax) 265-823 115 (cell)	malawicargo@eomw.net
Vincent Mpaluko	General Manager MITCO Ltd	265-773 939(P) 265-774 827(Fax) 265-843 532 (cell)	mitcoltd@malawi.net
William Chikaya	MANICA	265-765 166(P) 265-765 342(Fax)	

		265-835588 (cell)	
Thom Chilombe	Operations Manager Cargomate Ltd	265-710 102(P) 265-710 727(Fax) 265-829 053 (cell)	
Brighton Saka	Marketing Manager Cargomate Ltd	265- 710 102(P) 265-710727(Fax) 265-844 328(Cell)	
C S Kayira	Accountant, Cargomate Ltd	265-710 102(P) 265-710 727(Fax) 265-844 489 (cell)	
Michael Jensen	Managing Director Maersk Sealand	265-713 000(P) 265-713 005 (Fax) 265-961 961(Cell)	mlatop@maersk.com
Shafir Sama	Operations Manager R Gaffar Transport	265-710 522(P) 265-710 158 (Fax)	
Mr Chauwa	Station Manager, Songwe Border Post, Malawi Revenue Authority (MRA)		
Edwin Starch	Malawi representative, SADC customs transit working group (MRA)	265-671 782(P) 265-922 165 (cell)	mrahq@malawi.net
Daniel Chikudzu	MRA	265-620 844(P) 265-862 509 (cell)	
M.M Munthali	Ministry of Commerce and Industry External Trade Devison	265-770244(P) 265-770680(Fax) 265-841712(Cell)	minci@malawi.net
SOUTH AFRICA			
V Shabalala	General Manager: Customs, SARS	27-12-4224911	vshabalala@sars.gov.za
Erich Kieck	SARS Legal Unit, Office of the Commissioner	27-12-4224988	ekieck@sars.gov.za
Johan Raath	BCIP Manager, SARS	27-12-4226162	jraath@sars.gov.za
Richard Chauke	Manager: Customs Policy, SARS	27-12-4226591	rchauke@sars.gov.za
J Booysen	SARS legal counsel	27-12-4225169	jbooyesen@sars.gov.za
TANZANIA			
Clement Kalebe	Acting Director of Policy and Planning, Ministry of Communications and Transport	255-22-2114425(P)	kalebeclement@hotmail.com

	(MCT)		
Justus Blazi	Principal economist, MCT	255-22-2114425(P)	blazijustus@yahoo.co.uk
Ms Sihaba Nkinga	Senior economist, MCT	255-22-2114425(P)	sihaban@yahoo.co.uk
Dr Bartholomew Ruffunjo	Director of Transport and Communications, MCT	255-22-2122268(P) 255-22-2122268(Fax) 255-744 540404 (cell)	bruffunjo@yahoo.com
Samson Luhigo	Director General, Tanzania Harbours Authority (THA)	255-22-2110401/9(P) 255-22-2116250 (Direct)	luhigo@raha.com
Flavian Kinunda	Director of Marketing, THA	255-22-2110401(P) 255-22-2115559 (Drt) 255-744 781 675 (cell) 255-22-211 5559 (Fax)	kinunda@tanzaniaports.com
Jason Rugaihuruz	Port Manager, Dar es Salaam, THA	255-22-211 3642(P) 255-22-211 3646 (Fax) 255-742 781181(Cell)	pmdsm@tanzaniaports.com
Shane Bendera	Deputy Permanent Secretary, President's Office: Planning and Privatisation Commission		
Januarius Murema	Director of Policy, Ministry of Industry and Trade		
W M Setonga	Acting Commissioner: Customs and Deputy Commissioner, Up country operations Tanzania Revenue Authority (TRA)	255-51-119270 (P) 255-51-116640 (F)	wsentonga@raha.com
R Sharima	Tanzania Representative, SADC customs transit working group, TRA	255-22-211-1615(P) 255-22-211 6640 (Fax)	e-mail: mnyitafu@yahoo.com
Mr Mahende	Regional Revenue Regional Manager – Mbeya, TRA	255-25-25037433(P) 255-25-250 2295 (Fax) 255-0741-427728	
Mr Mroki	Collector, Tunduma, TRA		
Japhet Mpolly	Assistant Controller, Kasumulu, TRA		
Charles Phiri	Managing Director. TAZARA	255-22-286 5187 (P) 255-2228-65334 (Fax)	kaekacom@hotmail.com

Tenford Phiri	Director of Marketing and Traffic, TAZARA	255-22-2864340(P) 255-22-2865192 (Drt) 255-22-2865192 (Fax) 255-744 310589 (Cell)	acistz@afsat.com
Bernard Mbakileki	Director General, Tanzania Central Freight Bureau	255-22-211 4174(P) 255-22-2116697(Fax) 742 781 362 (Cell)	tefb@cats-net.com
Olav Elevset	Chief Executive, TANROADS	255-22-215 2576(P) 255-22-2150022 (Fax)	tanroadshq@cats-net.com
Boniface Nyiti	Director of Development, TANROADS	255-22-2150932(P) 255-22-2150022 (Fax)	tanroadshq@cats-net.com
Pascal Chikaonda	Manager (Tanzania), Malawi Cargo Centres Ltd	255-22-285 1642(P) 255-22-2851591 (fax)	mcmanager@raka.com
P C A Jere	Manager, Malawi Cargo Centres Ltd, Mbeya	255-22-250 4254 255-22-250 4260 (Fax) 255-744 343 899 (cell)	mwcargomby@africaline.tz
David Cotty	CEO and General Manager, Tanzanian International Container Terminal Services, Ltd	255-22-2134056(P) 255-22-2134019(Fax) 255-744 210 547(Cell)	dcotty@ticts.com
Hubert van Mierlo	General Manager, P&O Nedlloyd	255-22-2118060(P) 255-22-2112656 (Fax) 255-744 788306 (Cell)	h.van.mierlo@tzdar.ponl.com
Al-Karim Dawood	CEO, Transcargo, Ltd (Vice-chairman, Tanzania Transport Operators Association)	255-22-285 1001(P) 255-22-285 1102 (Fax) 255-744 320909 (Cell)	transcargo@twiga.com
S A Seif	Director, Superdoll Trailers Manufacture, Co (Chairman, Tanzania Transport Operators Association)	255-22-2860930(P) 255-22-2865412 (Fax)	stm@superdoll-tz.com
Said Muhammad Abeid	General Manager, Said Salim Bakhresa & Co (Chairman, Tanzanian Association of Freight Forwarders)	255-22-286 1116(P) 255-22-286 1140 (Fax) 255-744 380 294 (Cell)	azam@raha.com
William Shila	TANROADS Zonal Director	255-25-2504435(P) 255-25-2504451(Fax)	Sh-tanroads@twiga.com
Emanuel	Acting director,	255-22-2116197 (P)	emalagalila1@worldbank.org

Malangalila	World Bank Mission	255-22-2113039 (F)	
Judith Coker	Economic Growth Team Leader, USAID – Tanzania	255-22-2117537 ext 1207 (P) 255-22-2116559 (F)	jcoker@usaid.gov
ZAMBIA			
Chriticles Mwansa	Commissioner of Customs and Excise, Zambia Revenue Authority (ZRA)	260-1-223760(P) 260-1-223760 (Fax)	mwansa@zra.org.zm
Jones Muluka	Senior Collector, Nakonde, ZRA		asynke@zra.org.zm
Goran Malmberg	Managing Director, Zambia Railways	260-5- 224410(P) 260-5- 224699(Fax) 260-97 849 606(Cell)	md@zambiarailways.co.zm
Roland Norton	Chairman, FEDHAUL	260-1-247621	
N Gananadha	Executive Secretary, National Roads Board	260-1-253145(P) 260-1-253154(Fax)	gana@nrb.org.zm
Martin Mbangu	Director of Planning, Ministry of Communications and Transport (MCT)	260-1-251 444(P) 260-1-254 675 (Drt) 260-1-251 795 (Fax)	msmbangu@hotmail.com
Patrick Choolwe	Principal Economist, MCT	260-1-254063(P)	pchoolwe@hotmail.com
John C. Mwape	Transport Economist (responsible for corridors), MCT	260-1-254063 (P) 260-1-252165 (Fax) 260-97-821392 (Cell)	jcmwape@hotmail.com
R Nyundu	Chief Road Traffic Inspector, MCT	260-1-254063(P) 260-1-254194(Fax) 260-097 795053 (Cell)	
Marvin Ilunga	Public Relations Officer, Bank of Zambia	260-1-228888(P) 260-1-221764 (fax)	milunga@boz.zm
Agbal Alloo	Managing Director SableTransport	260-1-272110(P) 260-1-273311(Fax) 260-700888(Cell)	sabletsp@zamnet.zm

B. LIST OF REPORTS PRODUCED

1. *Memorandum (Legal opinion) to V Shabalala, 1 March 2002*
2. *Trip Report and Recommendations Dar es Salaam Corridor: Transport Co-ordinating Committee dated 28 March 2002 (as revised)*
3. *Constitution of the Dar es Salaam Corridor Committee: Draft Outline dated 28 March 2002*
4. *Draft agenda, facilitation framework for SARS Co-ordinating Committee on One-Stop Border Posts meeting, 15 April 2002*
5. *Powerpoint presentation to Co-ordinating Committee, 15 April 2002*
6. *Constitution of the Dar es Salaam Corridor Committee – First Draft, 26 April 2002*

7. *Powerpoint presentation to Customs Advisory Working Groups, One-Stop Concept, 12 June 2002*
8. *Position Paper on the One-Stop Border Post Concept and Joint Customs Controls, 17 June 2002*
9. *Draft Bilateral Agreement between the Republic of South Africa and the Republic of ...on the Establishment of Juxtaposed National Customs Offices at Land Border Crossings and the Performance of Joint Customs Controls, 17 June 2002*
10. *Regional Backgrounder on the One-Stop Border Post Concept / Joint Customs Controls, 18 June 2002 & Draft Bilateral Agreement between the Republic of ... and the Republic of ...on the Establishment of Juxtaposed National Customs Offices at Land Border Crossings and the Performance of Joint Customs Controls, 18 June 2002.*
11. *Institutional and Legal Roadmap to One-Stop Border Posts / Joint Customs Controls, 30 June 2002 (Botswana / Namibia)*
12. *Commercial Vehicle Overloading: Short Term Options for a System of Administrative Penalties during the Martin's Drift / Grobler's Bridge Pilot Project, 30 June 2002.*